

Decision 12-01-020 January 12, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of
PacifiCorp (U901E) for an Exemption to
California Public Utilities Code Section 851.

Application 11-09-002
(Filed September 1, 2011)

**DECISION APPROVING REQUEST FOR EXEMPTION
FROM CALIFORNIA PUBLIC UTILITIES CODE SECTION 851**

Summary

This decision finds that the application of the requirements of Public Utilities Code Section 851 is not necessary in the public interest with respect to property transfers undertaken between PacifiCorp, MidAmerican Energy Company, Kern River Gas Company, and Northern Natural Gas Company pursuant to the provisions of the Intercompany Mutual Assistance Agreement By And Between The Rate-Regulated Subsidiaries of MidAmerican Energy Holdings Company.

Background

MidAmerican Energy Holdings Company's (MEHC) wholly owned indirect subsidiary interest in PacifiCorp dba Pacific Power (PacifiCorp or Company) and MidAmerican Energy Company (MEC), and its wholly owned direct ownership interest in Kern River Gas Company (Kern), and Northern Natural Gas Company (NNG) creates an affiliate relationship between all five of the companies. Moreover, all of these entities are regulated by state public utility commissions and/or the Federal Energy Regulatory Commission.

MEC provides retail electric and natural gas services in Iowa, South Dakota, and Illinois. Kern operates a natural gas pipeline extending through Wyoming, Utah, Nevada, and California. NNG operates an interstate natural gas pipeline primarily delivering natural gas in the Midwest

The MEHC subsidiaries occasionally experience emergency situations, such as outages due to storms or equipment failure and have plans in place to address such situations. For example, PacifiCorp may draw upon its own resources, such as personnel and inventory, to respond to emergency situations. PacifiCorp may also enlist the assistance of neighboring utilities pursuant to emergency services agreements such as the Western Regional Mutual Assistance Agreement. MEHC has determined that the MEHC subsidiaries may also benefit from being able to rely on each other during emergency situations. To that end, the Intercompany Mutual Assistance Agreement By And Between The Rate-Regulated Subsidiaries of MidAmerican Energy Holdings Company (The Agreement) was developed.

The Agreement is intended to be an additional tool for responding to emergencies. Under the Agreement, a MEHC subsidiary needing assistance may request it of another MEHC subsidiary or subsidiaries. The other MEHC subsidiaries may choose whether or not to provide the requested assistance. In working with other utilities for which mutual assistance agreements are already in place, PacifiCorp typically only provides labor or other services, and only to the extent that providing such assistance will not impair the Company's own operations. PacifiCorp may occasionally provide goods, although only if there is surplus inventory and the provision of goods will not impair the Company's own operations.

Discussion

PacifiCorp serves approximately 45,000 customers in Del Norte, Modoc, Shasta, and Siskiyou counties in northern California.

As described above, PacifiCorp entered into a mutual assistance agreement with the other rate-regulated businesses in the MEHC family. The Agreement allows the MEHC subsidiaries to request assistance from each other in the event of an emergency. MEHC subsidiaries decide whether or not they will be able to respond to the request for assistance. Assistance provided will generally be in the form of services, such as labor for restoration of service during a storm outage. However, assistance provided may include the transfer of goods, such as wire or poles, that may require Commission approval. Section 851 requires utilities to obtain Commission approval prior to disposing of property necessary or useful for the performance of public duties. The type of filing required depends upon the value of the transaction, its affect on ratebase, and whether the transaction requires California Environmental Quality Act (CEQA) review.

The Agreement is designed to be used as an additional tool for responding to emergency situations when the Company needs resources from external sources. PacifiCorp typically relies on utilities nearest the location experiencing the emergency and intends to continue this practice. However, there may be some instances where it would be beneficial to receive assistance from MEHC subsidiaries pursuant to the Agreement. PacifiCorp only intends to provide assistance under the Agreement to the extent doing so will only involve surplus resources and will not impair operations.

Any goods provided will be reimbursed at the replacement cost. Payment for the provision of assistance will be governed by the terms and conditions of a mutual aid agreement, such as the Edison Electric Institute Mutual Assistance Agreement or the Western Region Mutual Assistance Agreement used to govern the logistics of the provision of mutual assistance during an emergency.

Section 851 requires Commission approval of all property dispositions and allows flexibility in the procedure for such approval based on the value of the transaction at issue. Section 853(b) allows the Commission to exempt a utility from the Section 851 requirements if such requirements are not necessary in the public interest.

PacifiCorp anticipates rare participation or reliance on the Agreement, making it unlikely that PacifiCorp would dispose of property. However, in the event that PacifiCorp has surplus inventory, regulatory flexibility would be beneficial so that PacifiCorp may quickly provide assistance in the event of an emergency. Filing for approval for disposals of property needed to address emergency situations does not serve the public interest. Obtaining approvals takes several months, where emergency situations require quick, if not immediate, attention. PacifiCorp is therefore granted an exemption from Section 851 to implement the Agreement.

CEQA Compliance

The potential transaction(s) involve the transfer of surplus goods used for the provision of utility service. The potential environmental impacts from the asset transfers and assistance, which would occur only during emergency situations, are speculative at this time. Additionally, the type of activities that would occur pursuant to this authorization are statutorily exempt from CEQA review because they consist of emergency repairs to publically or privately

owned service facilities necessary to maintain service essential to the public health, safety, or welfare. (Ca. Codes Regs., tit. 14, §15269(b)). Because of this exemption, no formal CEQA review is required.

Categorization and Need for Hearings

In Resolution ALJ 176-3280 dated September 8, 2011, the Commission preliminary categorized this Application, and preliminary determined that hearings were not necessary. No protests have been received. There is no apparent reason why the Application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Richard W. Clark is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. PacifiCorp, MEC, Kern, and NNG are all affiliated subsidiaries of MEHC.
2. PacifiCorp, MEC, Kern, and NNG (the MEHC subsidiaries) have executed the Agreement.
3. The Agreement allows the MEHC subsidiaries to request assistance from each other in the event of an emergency.

4. The Agreement is designed to be used as an additional tool for responding to emergency situations when the Company needs resources from external sources.

5. PacifiCorp typically relies on utilities nearest the location experiencing the emergency and intends to continue this practice.

6. There may be some instances where it would be beneficial to receive assistance from MEHC subsidiaries pursuant to the Agreement.

7. PacifiCorp only intends to provide assistance under the Agreement to the extent doing so will only involve surplus resources and will not impair operations.

8. Any goods provided will be reimbursed at the replacement cost.

9. Payment for the provision of assistance will be governed by the terms and conditions of a mutual aid agreement, such as the Edison Electric Institute Mutual Assistance Agreement or the Western Region Mutual Assistance Agreement used to govern the logistics of the provision of mutual assistance during an emergency.

10. The potential transaction(s) involve existing facilities and the transfer of surplus goods used for the provision of utility service.

11. No formal CEQA review is required.

Conclusions of Law

1. Public Utilities Code Section 851 requires Commission approval of all property dispositions and allows flexibility in the procedure for such approval based on the value of the transaction at issue.

2. Public Utilities Code Section 853(b) allows the Commission to exempt a utility from the Section 851 requirements if such requirements are not necessary in the public interest.

3. The application of the requirements of Public Utilities Code Section 851 is not necessary in the public interest with respect to property transfers undertaken between PacifiCorp, MEC, Kern, and NNG pursuant to the provisions of the Agreement.

4. The activities that would occur pursuant to this authorization are statutorily exempt from CEQA review because they consist of emergency repairs to publically or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare. (Ca. Codes Regs., tit. 14, §15269(b)).

O R D E R

IT IS ORDERED that:

1. The application of the requirements of Public Utilities Code Section 851 is not necessary in the public interest with respect to property transfers undertaken between PacifiCorp, MidAmerican Energy Company, Kern River Gas Company, and Northern Natural Gas Company pursuant to the provisions of the Intercompany Mutual Assistance Agreement By And Between The Rate-Regulated Subsidiaries of MidAmerican Energy Holdings Company executed between the subsidiaries during the period of February 15, 2011 through February 24, 2011.

2. PacifiCorp is authorized, without seeking Commission approval under Public Utilities Code Section 851 to implement property transfers made pursuant to the Intercompany Mutual Assistance Agreement By And Between The Rate-Regulated Subsidiaries of MidAmerican Energy Holdings Company.

3. PacifiCorp is required to seek approval of any substantive changes to the Intercompany Mutual Assistance Agreement By And Between The Rate-Regulated Subsidiaries of MidAmerican Energy Holdings Company (The

Agreement) by submitting a Tier 3 advice letter to the Commission's Energy Division pursuant to the applicable provisions of General Order 96-B. Substantive changes to the Agreement may not be implemented until the Commission has approved the advice letter.

4. Application 11-09-002 is closed.

This order is effective today.

Dated January 12, 2012, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners